

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

| | | |
|-----------------------------------------|---|-------------------------------|
| REBECCA CASTILLO, an individual, | : | Case No. 5:17-cv-2110 |
| | : | |
| Plaintiff, | : | MAGISTRATE JUDGE BURKE |
| v. | : | |
| | : | |
| JO-ANN STORES, LLC, | : | |
| | : | |
| Defendant. | : | |

DEFENDANT’S ANSWER TO PLAINTIFF’S COMPLAINT

Defendant, Jo-Ann Stores, LLC (hereinafter “Defendant”), by and through its undersigned counsel, for its Answer to Plaintiff’s Complaint for Injunctive Relief, Civil Monetary Penalties, and Other Equitable Relief (the “Complaint”) herein, states as follows:

[INTRODUCTION]

1. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “1” of the Complaint.
2. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “2” of the Complaint.
3. Defendant denies the allegations set forth in Paragraph “3” of the Complaint, except admits Plaintiff purports to proceed as alleged therein.
4. Defendant denies the allegations set forth in Paragraph “4” of the Complaint.
5. Defendant denies the allegations set forth in Paragraph “5” of the Complaint, except admits Plaintiff purports to proceed as alleged therein.

[JURISDICTION AND VENUE]

6. Defendant denies the allegations set forth in Paragraph “6” of the Complaint, except admits that Plaintiff purports to proceed as alleged therein.

7. Defendant denies the allegations set forth in Paragraph “7” of the Complaint, except admits that Plaintiff purports to proceed as alleged therein.

8. Defendant denies the allegations set forth in Paragraph “8” of the Complaint, except admits that it does business in the state of Ohio.

9. Defendant denies the allegations set forth in Paragraph “9” of the Complaint, except admits that Plaintiff purports to proceed as alleged therein.

[PARTIES]

10. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “10” of the Complaint.

11. Defendant admits the allegations set forth in Paragraph “11” of the Complaint.

12. Defendant admits the allegations set forth in Paragraph “12” of the Complaint, but respectfully refers the Court to the website referenced therein for a full depiction of its true and accurate features.

13. The allegations in Paragraph “13” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations set forth therein.

14. Defendant denies the allegations set forth in Paragraph “14” of the Complaint.

[FACTUAL ALLEGATIONS]

15. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “15” of the Complaint.

16. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “16” of the Complaint.

17. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “17” of the Complaint.

18. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “18” of the Complaint.

19. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “19” of the Complaint.

20. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “20” of the Complaint.

21. The allegations set forth in Paragraph “21” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

22. The allegations set forth in Paragraph “22” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the case cited therein for its full and accurate content.

23. Defendant denies the allegations set forth in Paragraph “23” of the Complaint.

24. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “24” of the Complaint.

25. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “25” of the Complaint, including subparagraphs (a) through (q) set forth therein.

26. Defendant admits the allegations set forth in Paragraph “26” of the Complaint.

27. Defendant denies the allegations set forth in Paragraph “27” of the Complaint, and respectfully refers the Court to the website referenced therein for a full depiction of its true and accurate features.

28. Defendant denies the allegations set forth in Paragraph “28” of the Complaint, and respectfully refers the Court to the website referenced therein for an accurate description of the goods and services Defendant provides.

29. Defendant denies the allegations set forth in Paragraph “29” of the Complaint.

30. Defendant denies the allegations set forth in Paragraph “30” of the Complaint.

31. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “31” of the Complaint.

32. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “32” of the Complaint.

33. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “33” of the Complaint.

34. Defendant denies the allegations set forth in Paragraph “34” of the Complaint.

35. Defendant denies the allegations set forth in Paragraph “35” of the Complaint.

36. Defendant denies the allegations set forth in Paragraph “36” of the Complaint.

37. Defendant denies the allegations set forth in Paragraph “37” of the Complaint, including subparagraphs (a) through (d) alleged therein.

38. Defendant denies the allegations set forth in Paragraph “38” of the Complaint.

39. Defendant denies the allegations set forth in Paragraph “39” of the Complaint.

40. Defendant denies the allegations set forth in Paragraph “40” of the Complaint.

41. Defendant denies the allegations set forth in Paragraph “41” of the Complaint.

42. Defendant denies the allegations set forth in Paragraph “42” of the Complaint.

43. Defendant denies the allegations set forth in Paragraph “43” of the Complaint.

44. Defendant denies the allegations set forth in Paragraph “44” of the Complaint.

45. Defendant denies the allegations set forth in Paragraph “45” of the Complaint.

46. Defendant denies the allegations set forth in Paragraph “46” of the Complaint, including subparagraphs (a) through (d) set forth therein.

47. Defendant denies the allegations set forth in Paragraph “47” of the Complaint.

48. The allegations set forth in Paragraph “48” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

49. Defendant denies the allegations set forth in Paragraph “49” of the Complaint, except admits that Plaintiff purports to proceed as alleged therein.

50. Defendant denies the allegations set forth in Paragraph “50” of the Complaint, including subparagraphs (a) through (d) set forth therein, except admits that Plaintiff purports to proceed as alleged therein.

51. Defendant denies the allegations set forth in Paragraph “51” of the Complaint.

52. Defendant denies the allegations set forth in Paragraph “52” of the Complaint.

53. Defendant denies the allegations set forth in Paragraph “53” of the Complaint.

[COUNT I]

54. Defendant repeats its responses set forth in Paragraphs “1” through “53” of this Answer by reference as if fully set forth in response herein to allegations set forth in Paragraph “54” of the Complaint.

55. The allegations set forth in Paragraph “55” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

56. The allegations set forth in Paragraph “56” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

57. Defendant denies the allegations set forth in Paragraph “57” of the Complaint.

58. The allegations set forth in Paragraph “58” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

59. The allegations set forth in Paragraph “59” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

60. The allegations set forth in Paragraph “60” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure.

To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

61. Defendant denies the allegations set forth in Paragraph “61” of the Complaint.

62. Defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations set forth in Paragraph “62” of the Complaint.

63. Defendant denies the allegations set forth in Paragraph “63” of the Complaint.

64. Defendant denies the allegations set forth in Paragraph “64” of the Complaint.

65. Defendant denies the allegations set forth in Paragraph “65” of the Complaint, except admits that Plaintiff purports to proceed as alleged therein.

[COUNT II]

66. Defendant repeats its responses set forth in Paragraphs “1” through “65” of this Answer by reference as if fully set forth in response herein to allegations set forth in Paragraph “66” of the Complaint.

67. The allegations set forth in Paragraph “67” of the Complaint constitute conclusions of law to which no response is required under the Federal Rules of Civil Procedure. To the extent that a response is necessary, Defendant denies the allegations and respectfully refers the Court to the statute cited therein for its full and accurate content.

68. Defendant denies the allegations set forth in Paragraph “68” of the Complaint.

69. Defendant denies the allegations set forth in Paragraph “69” of the Complaint.

70. Defendant denies the allegations set forth in Paragraph “70” of the Complaint.

71. Defendant denies the allegations set forth in Paragraph “71” of the Complaint.

72. Defendant denies the allegations set forth in Paragraph “72” of the Complaint.

73. Defendant denies the allegations set forth in Paragraph “73” of the Complaint.

74. To the extent not otherwise denied, Defendant denies Plaintiff is entitled to any relief or remedy specified in the “Wherefore” clauses set forth in the Complaint, including subparagraphs (a) through (i) alleged therein.

75. Defendant denies Plaintiff is entitled to a jury trial in this action.

AFFIRMATIVE DEFENSES

1. The Complaint as a whole and each and every purported cause of action alleged therein fails to state facts sufficient to constitute a claim against Defendant.

2. Plaintiff’s claims are barred, in whole or in part, as Plaintiff did not request Defendant to provide auxiliary aids and services.

3. The Complaint is barred in whole or in part to the extent the Website, www.joann.com (the “Website”), provides equivalent or greater accessibility to Plaintiff and persons with disabilities.

4. Defendant is not obligated to make any alterations sought by Plaintiff that would result in a fundamental alteration in the nature of Defendant’s services, programs, or activities or in undue financial and administrative burdens where other methods are effective to achieve compliance under Title III of the ADA and/or applicable state and local public accommodation laws.

5. Plaintiff’s claims are barred by the applicable statute of limitations.

6. Any changes Plaintiff advocates are barred to the extent they are practically difficult, pose an unnecessary hardship and/or extreme so that such changes are not required and/or are subject to exception.

7. Plaintiff’s claims are barred because she lacks standing to pursue such claims.

8. At all times relevant to this action, Defendant acted honestly and in good faith to ensure full compliance with Title III of the ADA and all other applicable state and local public accommodation laws, to the extent readily achievable and/or required by law.

9. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver, laches, unclean hands, and/or estoppel.

WHEREFORE, having fully answered the allegations contained in Plaintiff's Complaint, Defendant respectfully requests that Plaintiff's Complaint be dismissed in its entirety with prejudice, that Defendant be awarded its costs and attorneys' fees incurred in defending against this action, and for such other relief as this Court deems just and appropriate.

Respectfully submitted,

s/ Stephen W. Funk, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of February, 2018, a true and accurate copy of the foregoing was filed with the United States District Court for the Northern District of Ohio via the Court's CM/ECF system, which will send electronic notification of such filing to the following:

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/s/ Stephen W. Funk, Esq.

Stephen W. Funk, Esq.